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TRIPURA GAZETTE

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PART--I-- Orders and Notifications by the Government of Tripura, The High Court, Government Treasury etc.

GOVERNMENT OF TRIPURA
FINANCE DEPARTMENT
(EXCISE & TAXATION)

No.F.I-1(3)-EX/07 Dated, the, Agartala 19/12/2018.

NOTIFICATION

The Excise Organization has been following the Notification issued by the Revenue Department, Government of Tripura vide No.F.I-3(1)-EX/86(P-III) dated 10-06-1994 and Notification issued by the Finance Department, Government of Tripura vide No.F.1-1(3)-EX/07 dated 09-08-2012 for disposal of seized narcotic and psychotropic substances as per procedure laid down in Standing Order No. 1 of 1989 dated 13-06-1989 of the Ministry of Finance (Department of Revenue), Government of India.

However, the Hon'ble Supreme Court in the case *Union of India versus. Mohanlal & Anr in Criminal Appeal No. 652 of 2012 dated 28-01-2016* has treated the Standing Order No. 1 of 1989 dated 13-06-1989 which prescribed the procedure to be followed for seizure, sampling, safe keeping and disposal of the seized drugs, narcotics and psychotropic substances, to have been superseded by the Notification notified by the Ministry of Finance (Department of Revenue), Government of India vide G.S.R. 38(E) dated 16-01-2015 to the extend the subsequent Notification prescribed a different procedure.

In pursuance of the Standing Order G.S.R. 38(E) dated 16-01-2015 of the Ministry of Finance (Department of Revenue), Government of India, the Governor of Tripura is hereby pleased to constitute the following Committee :

A Drug Disposal Committee comprising of the following rank of officers for each district for the disposal of seized narcotic drugs and psychotropic substances against each specified quantity vide para 8 of the Notification dated 16-01-2015.

1.	Superintendent of Police	Chairperson
2.	Additional District Magistrate & Collector	Member
3.	Senior Deputy Magistrate (Attached to the Office of the DM & Collector)	Member

Regarding constitution of a High Level Drug Disposal Committee for the purpose of disposal of the seized quantity of narcotic drugs and psychotropic substances in excess quantity or higher value than the specified quantity mentioned in para 8 of the Notification dated 16-01-2015, such Committee has been constituted by the Home Department, Government of Tripura vide Notification No.F.13(30)-PD/16/1004, dated 19th April, 2017 (copy enclosed) which be followed.

The Standing Order G.S.R. 38(E) dated 16-01-2015 speaks only about the procedure to be followed for disposal of seized articles recovered from the person of the accused under Section 52A of the Narcotic Drugs and Psychotropic Substances Act, 1985 and accordingly has prescribed inventory (formats) for disposal of the "claimed seizure" (copy enclosed).

Regarding "unclaimed seizure", the Hon'ble High Court of Delhi in the case *Narcotics Control Bureau versus Unknown Person vide CRL.M.C. 5105/2015 and CRL.M.A. 18398/2015 dated 26-04-2017* defined the ways of disposal procedure of narcotic drugs, psychotropic substances or controlled substances. The excerpt of relevant portion of the judgment is as follows :

"16. Under the NDPS Act there are two types of seizure of the narcotic drug, psychotropic substance or controlled substance:-

i. Narcotic drug, psychotropic substance or controlled substance seized from a person.

ii. Narcotic drug, psychotropic substance or controlled substance seized from a public place and the offender is not known or is likely to be not known in near future.

17. The narcotic drug, psychotropic substance or controlled substance, etc which is seized from a person or from a public place is dealt under Sections 41/42/43/44 of NDPS Act and the procedure for its disposal is dealt under Sections 52/52A of NDPS Act.

Whereas, cconfiscation of narcotic drug, psychotropic substance or controlled substance, etc is dealt under Sections 60/61/62/63 of NDPS Act.

18. Sub clause (2) of Section 63 of NDPS Act specifically states "where any article or thing seized under this Act appears to be liable to confiscation under Section 60 or Section 61 or Section 62, but the person who committed the offence in connection therewith is not known or cannot be found, the Court may inquire into and decide such liability, and may order confiscation accordingly"

19. Therefore, there are two ways formulated for destroying the narcotic drug, psychotropic substance or controlled substance under the NDPS Act :-

i. under Section 52A of NDPS Act and;

ii. under Section 63(2) of NDPS Act."

In this regard, the Hon'ble High Court of Delhi has prescribed disposal of unclaimed seized articles under Section 63(2) of the NDPS Act, 1985 vide para 27 of the judgment dated 26-04-2017 (copy enclosed), which reads as follows:

"In such situation the Drug Law Enforcement Officer (DLEO) after one month of seizure should apply to the Court informing the details of the case and the efforts put in to identify the accused and the fact that such persons could not be known or identified and pray for confiscation of the goods under Section 63 of the NDPS Act and the Court after considering the aforesaid application may pass an appropriate order..."

In view of all the above, the Governor is hereby pleased to direct the authorities to follow the Standing Order bearing G.S.R. 38(E) dated 16-01-2015 read with Judgment in Mohanlal's case for disposal of seized articles recovered from the person of the accused under Section 52A of the NDPS Act 1985 and judgment of the Hon'ble High Court of Delhi in the case *Narcotics Control Bureau versus Unknown Person dated 26-04-2017* for disposal of unclaimed seized articles under Section 63(2) of the NDPS Act 1985.

19/12/18

(Nagesh Kumar B, IAS)
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Government of Tripura